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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**GLENN H. SONSTENG, Personal
Representative of the Estate of EDNA M.
SONSTENG, Deceased,**

Plaintiff,

v.

**THE DOMINICAN SISTERS OF
ONTARIO, INC.,** an Oregon non-profit
corporation, dba **HOLY ROSARY
MEDICAL CENTER; JOSEPH J.
BOYLE, M.D., and FRANK J. SPOKAS,
M.D.,**

Defendants.

Civil No. 2:06-CV-476-SU

**PLAINTIFF'S RESPONSE
TO DEFENDANTS' OBJECTIONS
TO FINDINGS AND
RECOMMENDATION**

Defendant JOSEPH J. BOYLE and defendant THE DOMINICAN SISTERS OF
ONTARIO, INC., DBA HOLY ROSARY MEDICAL CENTER, object to the following statement
in the Court's Findings and Recommendation:

"[S]hould plaintiff recover under the alternative survival theory, the statutory cap may not apply If ... the recovery is not under the wrongful death statute, no cap should apply." *Findings and Recommendation*, p. 16.

Defendant FRANK J. SPOKAS objects to the following statements in the Court's

Findings and Recommendation:

Nothing in ORS 30.075 prohibits plaintiff from continuing an action for personal injury as a survival action and maintaining in the same complaint an action for wrongful death. . . .Defendants' Motion to Dismiss the survival claim should be denied.

* * *

"[S]hould plaintiff recover under the alternative survival theory, the statutory cap may not apply." *Findings and Recommendation*, pp. 15-16.

Plaintiff argues that all such findings are appropriate and that defendants' objections should be denied. Plaintiff relies on the memorandum filed simultaneously herewith.

DATED: July 11, 2007

JOLLES & BERNSTEIN, P.C.



Bernard Jolles, OSB #63039
Candice Rutter, OBS #02520
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2007, I served the foregoing **PLAINTIFF'S RESPONSE TO DEFENDANTS' OBJECTIONS TO FINDINGS AND RECOMMENDATION IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANTS' OBJECTIONS TO FINDINGS AND RECOMMENDATION** on:

Carl Burnham, Jr.
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by the means, and at the addresses, indicated.

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